

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

PHITSAMY SENESOUK,

Petitioner

v.

UNITED STATES OF AMERICA,

Respondent

CASE NO. 3:02-CR-103

(JUDGE CAPUTO)

MEMORANDUM

Before me is Petitioner's Motion to Obtain Plea Colloquy. (Doc. 96.)

Petitioner has filed a motion to vacate his sentence under 28 U.S.C. § 2255 in which he claims that he was enhanced to career offender status improperly. He does not give any reasons why the enhancement was improper. He also notes that he relies on *Blakely v. Washington*, 542 U.S. 296 (2004) and *United States v. Booker*, 125 S.Ct. 738 (2005).

Petitioner had two prior felony convictions for a controlled substance offense, namely, Possession of Cocaine with Intent to Deliver in 1993 wherein a search warrant of his residence revealed a .9mm handgun, and Possession of Cocaine with Intent to Deliver in 1996. The sentencing guidelines range was 151 to 188 months (which included the reflection of a 3 point credit for acceptance of responsibility) and Petitioner was sentenced to 151 months.

Based on the foregoing, I cannot certify that this action is not frivolous and that the transcript is needed to decide the issues presented by Petitioner. The motion will therefore be **DENIED**.

An appropriate Order follows.

October 24, 2005

Date

/s/ A. Richard Caputo

A. Richard Caputo

United States District Judge

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ORDER

NOW, this 24th day of October 2005, **IT IS HEREBY ORDERED** that the Petitioner's Motion to Obtain Plea Colloquy (Doc. 96) is **DENIED**.

/s/ A. Richard Caputo

A. Richard Caputo
United States District Judge